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Note verbale dated 25 February 2002 from the Permanent Representative of Japan to the United Nations addressed to the Secretary-General of the United Nations, regarding the submission made by the Russian Federation on 20 December 2001 to the Commission on the Limits of the Continental Shelf

The Permanent Representative of Japan to the United Nations presents his compliments to the Secretary-General of the United Nations and, with reference to the latter's communication CLCS.01.2001.LOS (Continental Shelf Notification) dated 20 December 2001, concerning the receipt of the submission made by the Russian Federation to the Commission on the Limits of the Continental Shelf, has the honour to submit a position paper of the Government of Japan with relation to the Russian Federation's submission (see annex).

The Permanent Representative of Japan to the United Nations has further the honour to request that the Secretary-General of the United Nations circulate the present note verbale and its annex as a document of the twelfth Meeting of States Parties to the United Nations Convention on the Law of the Sea.

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Annex

Japan's position on the submission made by the Russian Federation to the Commission on the Limits of the Continental Shelf

With regard to the submission made by the Russian Federation to the Commission on the Limits of the Continental Shelf pursuant to article 76, paragraph 8, of the United Nations Convention on the Law of the Sea (UNCLOS), the Government of Japan would like to express its position on this matter as follows, and to request the Commission and all States Members of the United Nations to fully understand Japan's position. The Government of Japan would also like to strongly request the Commission to take just and appropriate actions on this matter. Furthermore, inasmuch as a qualified assessment based on scientific data has not yet been conducted, the Government of Japan reserves its right to submit its further comments in relation to the Russian Federation's submission.

1. It is Japan's view that the maps containing the islands of Etorofu, Kunashiri, Shikotan and Habomai (hereinafter referred to as the "Four Islands") attached to the submission made by the Russian Federation are not appropriate for examination by the Commission.

The maps illustrate as Russian waters the exclusive economic zone and the continental shelf around the Four Islands, which are inherent Japanese territory. Specifically:

(a) The basepoints from which the breadth of the territorial sea of the Russian Federation is measured are indicated on the Four Islands, which are inherent Japanese territory;

(b) A line showing the outer limits of the continental shelf and the exclusive economic zone was drawn by the Russian Federation unilaterally in the water offshore of Hokkaido and the Four Islands. However, no agreement on delimitation of the continental shelf and the exclusive economic zone between Japan and the Russian Federation has ever existed. Moreover, the line seems to be drawn based on the basepoints on the Four Islands.

The situation arising from the illegal occupation of the Four Islands by the former Soviet Union after the end of the Second World War has continued to this day. These islands, however, have always been inherent Japanese territory and have never been recognized, historically or legally, as the territory of another State. Japan has consistently called for the return of the Four Islands. Attached is a copy of the chart Japan deposited with the Secretary-General of the United Nations, which shows the limits of the territorial sea relating to the Four Islands (see appendix I).

The Russian Federation also clearly acknowledges that the national border in this area has not yet been delimited. Japan and the Russian Federation have continued vigorous negotiations, in a friendly atmosphere, based on the common understanding that both countries will conclude a peace treaty after the resolution of the issue of the attribution of the Four Islands (also attached is a copy of the Irkutsk Statement by the Prime Minister of Japan and the President of the Russian Federation on the Continuation of Future Negotiations on the Issue of a Peace Treaty, signed on 25 March 2001 (see appendix II)). Under these circumstances, it is

extremely regrettable that the Russian Federation submitted to the Commission for circulation the maps which ignore the negotiations between the two countries.

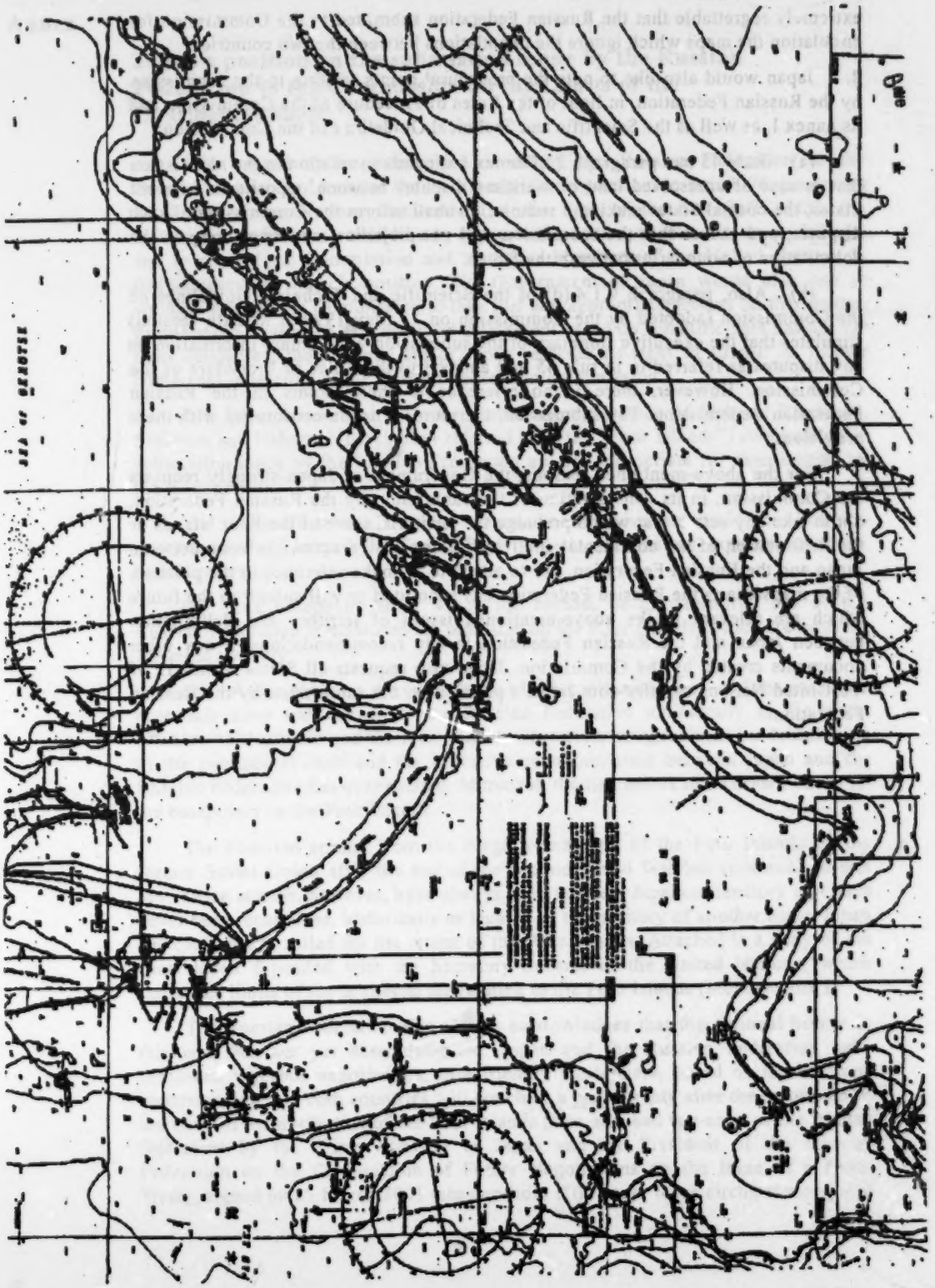
2. Japan would also like to note the procedural points relating to the submission by the Russian Federation, in light of the Rules of Procedure of the Commission and its annex I, as well as the Scientific and Technical Guidelines of the Commission:

(a) Rule 45 and paragraph 2 of annex I stipulate in relation to the submission that in case of unresolved land or maritime disputes between opposite or adjacent States, the coastal States making a submission shall inform the Commission of such disputes, and ensure that the submission will not prejudice matters relating to the delimitation of boundaries between the States.

(b) Also, paragraph 9.1.4.(d) of the Scientific and Technical Guidelines of the Commission (adopted by the Commission on 13 May 1999 at its fifth session) stipulates that the executive summary of the submission will contain information on any disputes as referred to in rule 45 and annex I to the Rules of Procedure of the Commission. However, there is no reference to these points in the Russian Federation's submission. The submission, therefore, is not in conformity with these provisions.

3. For the above-mentioned reasons, the Government of Japan strongly requests the Commission, in its consideration of the submission by the Russian Federation, not to take any action that would prejudge the territorial issue of the Four Islands or the delimitation of the continental shelf and the exclusive economic zone between Japan and the Russian Federation, nor to attach to or make reference to the portions of the maps/charts the Russian Federation has submitted or will submit in the future which are relevant to the above-mentioned issues of territory and delimitation between Japan and the Russian Federation in any recommendations or any other documents created by the Commission. Japan also requests all States Members of the United Nations to fully note Japan's position on the submission by the Russian Federation.

Appendix I



A copy of the chart deposited by Japan with the Secretary-General of the United Nations on 28 March 2000, showing the limits of the territorial sea with relation to the Four Islands

Notes

1. The straight baselines and the limits of the territorial sea shown on this chart are based on the provisions of Law No. 30 of 1977 on the Territorial Sea and the Contiguous Zone and Enforcement Order No. 206 of 1996 of Law No. 30 of 1977 on the Territorial Sea and the Contiguous Zone. The provisions pertaining to the straight baselines of the Enforcement Order entered into force on 1 January 1977.

2. Of all the base points of the straight baselines given in attached table 1 of Enforcement Order No. 206 of 1996 of Law No. 30 of 1977 on the Territorial Sea and the Contiguous Zone, only major points are shown on this chart due to its small scale.

Table 1

1. The line joining points sequently from (a) to (f) described below:

   (a) The point at 44° 37' 47" North Latitude and 146° 57' 10" East Longitude (the northernmost point of Kunneuensiri Hana)

   (b) The point at 44° 49' North Latitude and 147° 6' 25" East Longitude (the northwesternmost point of Poronotu Hana)

   (c) The point at 45° 6' 25" North Latitude and 147° 30' 2" East Longitude (the westernmost point of Notoro Sima)

   (d) The point at 45° 25' 46" North Latitude and 147° 54' 26" East Longitude

   (e) The point at 45° 26' 12" North Latitude and 147° 55' 50" East Longitude (the northernmost point of Ikabanotu Misaki)

   (f) The point at 45° 32' 3" North Latitude and 148° 39' 17" East Longitude (the northwesternmost point of Sibetoro Misaki)

2. The line joining points sequently from (a) to (o) described below:

   (a) The point at 43° 48' 25" North Latitude and 146° 54' 43" East Longitude (the southeasternmost point of Itakotan Saki)

   (b) The point at 43° 44' 38" North Latitude and 146° 48' 20" East Longitude (the southeasternmost point of Ō Sima, Sikotan Tō)

   (c) The point at 43° 42' 12" North Latitude and 146° 40' 52" East Longitude

   (d) The point at 43° 41' 50" North Latitude and 146° 38' 51" East Longitude (the southernmost point of Kanpuusu Saki)

   (e) The point at 43° 41' 56" North Latitude and 146° 38' 36" East Longitude (the southwesternmost point of Kanpuusu Saki)

   (f) The point at 43° 43' 59" North Latitude and 146° 35' 49" East Longitude

(g) The point at 43° 44' 25" North Latitude and 146° 35' 24" East Longitude (the southwesternmost point of Notoro Saki)

(h) The point at 43° 44' 37" North Latitude and 146° 35' 18" East Longitude (the westernmost point of Notoro Saki)

(i) The point at 43° 48' 8" North Latitude and 146° 35' 19" East Longitude (the westernmost point of Ō Saki)

(j) The point at 43° 48' 15" North Latitude and 146° 35' 22" East Longitude (the northwesternmost point of Ō Saki)

(k) The point at 43° 48' 20" North Latitude and 146° 35' 30" East Longitude (the northermost point of Ō Saki)

(l) The point at 43° 48' 55" North Latitude and 146° 36' 38" East Longitude

(m) The point at 43° 49' 6" North Latitude and 146° 37' 2" East Longitude

(n) The point at 43° 52' 25" North Latitude and 146° 46' 46" East Longitude (the northwesternmost point of Gunkan Misaki)

(o) The point at 43° 53' 16" North Latitude and 146° 49' 41" East Longitude (the northernmost point of Hiserohu Saki)

Appendix II

The Ministry of Foreign Affairs of Japan

Irkutsk Statement by the Prime Minister of Japan and the President of the Russian Federation on the Continuation of Future Negotiations on the Issue of a Peace Treaty

On 25 March 2001, Prime Minister Yoshiro Mori of Japan and President Vladimir Vladimirovich Putin of the Russian Federation held talks in Irkutsk. Both parties expressed their satisfaction that bilateral relations are demonstrating further progress in all areas following the visit to St. Petersburg of the Prime Minister of Japan in April 2000 and the visit to Tokyo of the President of the Russian Federation in September 2000.

The two leaders had an in-depth exchange of views regarding peace treaty issues based on the points agreed in the Statement by the Prime Minister of Japan and the President of the Russian Federation on the Issue of a Peace Treaty signed on 5 September 2000.

Both parties state that, in the 1990s, qualitative activation of the negotiation process led to a more profound understanding of each other's position. The Krasnoyarsk Agreement, in which both sides agreed to make their utmost efforts to conclude a peace treaty by the year 2000 on the basis of the 1993 Tokyo Declaration on Japan-Russia Relations, provided a crucial, positive impetus to negotiations. Both parties pointed out that work toward the realization of the Krasnoyarsk Agreement had achieved important results, and that such creative drive must be sustained into the future.

In this connection, based on the conviction that the conclusion of a peace treaty will encourage further activation of progressive development in Japan-Russia relations and herald a qualitatively new stage in those relations,

Both parties,

- Agreed to further negotiations regarding the conclusion of a peace treaty on the basis of documents adopted thus far, including the 1956 Japan-Soviet Joint Declaration, the 1973 Japan-Soviet Joint Communique, the 1991 Japan-Soviet Joint Communique, the 1993 Tokyo Declaration on Japan-Russia Relations, the Moscow Declaration on Building a Creative Partnership between Japan and the Russian Federation, the 2000 Statement by the Prime Minister of Japan and the President of the Russian Federation on the Issue of a Peace Treaty, and this Statement;

- Confirmed that the 1956 Japan-Soviet Joint Declaration is a basic legal document that established the starting point in the negotiation process for the conclusion of a peace treaty subsequent to the restoration of diplomatic relations between both countries;

- Based on this confirmation, agreed to promote future negotiations to accomplish complete normalization of Japan-Russia relations by means of concluding a peace treaty through the solution of issues concerning the attribution of the islands of Etorofu, Kunashiri, Shikotan and Hahomai, on the basis of the 1993 Tokyo Declaration on Japan-Russia Relations;

- Agreed to activate negotiations and to decide at the earliest possible date a concrete direction for progress toward the conclusion of a peace treaty, aiming to reach a solution acceptable to both sides;

- Confirmed to continue cooperation surrounding the islands of Etorofu, Kunashiri, Shikotan and Habomai aimed at improving the environment for the early conclusion of a peace treaty;

- Confirmed the importance of the implementation of the Memorandum on the Preparation of a New Version of the Joint Compendium of Documents on the History of Territorial Issues and Enlightenment of the Public as to the Importance of the Conclusion of a Peace Treaty signed by Minister for Foreign Affairs Yohei Kono of Japan and Minister of Foreign Affairs Igor Sergeyevich Ivanov of the Russian Federation on 16 January 2001.

- Both parties consider it fundamental that the maintenance of an atmosphere based on mutual understanding, trust and wide-ranging mutually beneficial cooperation in various aspects in Japan-Russia relations is extremely important in conducting negotiations.

In Irkutsk, the twenty-fifth day of March two thousand and one:

Yoshiro Mori
Prime Minister of Japan

Vladimir Vladimirovich Putin
President of the Russian Federation